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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,918	05/26/2000	Philip C M Leung	1126.001US1	8219

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EXAMINER

FISCHER, ANDREW J

ART UNIT PAPER NUMBER

3627

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/579,919

Applicant(s)
Phillip C. Leung

Examiner
Andrew J. Fischer

Art Unit
3627



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-24 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-10 and 12-22 drawn to a trailer transport system,, classified in class 705, subclass 6.
 - II. Claims 11 and 23, drawn to a method of tracking a trailer, classified in class 705, subclass 8.
 - III. Claim 24, drawn to a method of controlling access, classified in class 713, subclass 201.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus can be practiced by a materially different process—one that does not require transporting the trailer.
3. Because these inventions are distinct for the reasons given above, because the search required for Group I is not required for Group II, and because the inventions have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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4. The inventions are distinct, each from the other because of the following reasons:

Inventions I and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus can be practiced by a materially different process—one that does not require transporting the trailer.

5. Because these inventions are distinct for the reasons given above, because the search required for Group I is not required for Group III, and because the inventions have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation, different functions, or different effects since controlling access does not relate in any way to tracking.

7. Because these inventions are distinct for the reasons given above, because the search required for Group II is not required for Group III, and because the inventions have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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Election of Species

8. This application contains claims directed to the following patentably distinct species of the claimed invention:

9. Species Group A:

Species A1: Represented by Figure 1;
Species A2: Represented by Figure 5;
Species A3: Represented by Figure 6;
Species A4: Represented by Figure 7;
Species A5: Represented by Figure 8; and
Species A6: Represented by Figure 10.

10. Species Group B:

Species B1: Represented by Figure 2;
Species B2: Represented by Figure 3; and
Species B3: Represented by Figure 4.

11. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species from each group (e.g. Species A6 and Species B3) for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

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12. Applicant is advised that a reply to this requirement must include both the chosen invention (Inventions I, II, or III) *and* an identification of the species elected consonant with this requirement, in addition to a listing of all claims readable thereon, including any claims subsequently added in response to this Office Action or in any future amendment. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election. The chosen species (e.g. Species A6 and Species B3) must at least be capable of being used together with the chosen invention (e.g. Invention III).

13. Upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election in response to this Office Action or in any future amendment, Applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

14. Should applicant traverse on the ground that the species are not patentably distinct or that a particular group is not patentably distinct (e.g. Applicant could argue that the embodiments as noted in Species B are not patentably distinct) Applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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15. A telephone call was not made because this application is considered "complex" since this Office Action contains both a restriction requirement and multiple species groups. See MPEP §812.01.

16. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Fischer whose telephone number is (703) 305-0292.

AJFischer 5/17/03
ANDREW J. FISCHER
PATENT EXAMINER

AJF
May 17, 2003